

persons, such moneys being recoverable under this Regulation or any other law as arrears of land revenue, the purchaser, if he happens to be the person entitled to the payment of the money so recovered may be allowed, subject to such conditions and restrictions as may be imposed in this behalf by the Deputy Commissioner, to set off the purchase money due by him against the money payable to him and for the recovery of which the sale is being held."]

"Notwithstanding anything contained in Sections 179 and 180, the party entitled to the payment of the money for the recovery of which a sale of immoveable property is held may apply to the Deputy Commissioner for permission to purchase such property which may be granted subject to such rules as may be prescribed by the Government in this behalf, and where a party purchases with such permission, the purchase money due by him and the amount for the recovery of which the sale is held may be set off against one another."

No. 3898—L. C., Bangalore, dated 14th May 1936.

Under Standing Order No. 49 of the Standing Orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill further to amend the Mysore District Boards Regulation, 1926, is published for general information.

By Order,

C. SUBRAHMANYA AIYAR,

Secretary,

Mysore Legislative Council.

**Report of the Select Committee on the Bill further to amend
the Mysore District Boards Regulation, 1926.**

We, the undersigned members of the Select Committee to which the Bill to further amend the Mysore District Boards Regulation was referred, have considered the Bill at two sittings held on 20th March 1936 and 1st May 1936 and have the honor to submit this our report.—

Clause 2.—The term “general election” is well understood and we consider that it may be used instead of the expanded phraseology “election of members in place of those whose term of office expires under section 24,” as proposed in the Bill.

Clauses 4 and 5.—Section 10 relates to disqualification of voters, Section 11 to disqualification of candidates and Section 26 to disqualification of members after election.

In the bill it is proposed to remove the disqualifications in respect of voters and to prescribe them in regard to members of the District Board. There will arise three classes of disqualifications, *viz.*, one for members under section 10 as proposed to be amended, one for candidates under section 11 and another for members after election.

The wording is somewhat wanting in clarity and some of the provisions are overlapping. Some of the qualifications or disqualifications prescribed for candidates should continue to apply even after election. We consider it desirable to bring all these disqualifications under one clause on the lines of section 12 of the City Municipalities Regulation. We therefore propose that the following be substituted for sections 10 and 11 and that section 26 be deleted.

DISQUALIFICATION OF MEMBERS.

10. (1) (A) No person may be a member of a District Board—

(a) who has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed, or quashed, or

(b) against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1904, in proceedings instituted under section 110 of that Code, such order not having been subsequently reversed or quashed, or

(c) who has been dismissed from municipal, district board or Government service, such dismissal having been notified as debarring him from re-employment, or

(d) who was a legal practitioner whose sannad has been withdrawn by the High Court, or

(e) who has been removed from office under section 27, or

(f) who is a legal practitioner whose sannad has been suspended by the High Court, or

(g) who is an undischarged insolvent, or

(h) who is less than twenty-one years of age, or

(i) who is of unsound mind, or

(j) who is a judge, and

(B) No person;

(a) who is a salaried officer or servant of a district board, or

(b) who, save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a district board, or in any contract or employment with, or under, or by, or on behalf of a district board, or

(c) who is employed as paid legal practitioner on behalf of a district board or accepts employment as legal practitioner against a district board,

may be a member of such district board.

Provided that—

(a) the disqualification in sub-clause (b) of clause A will cease to operate after the expiry of the period during which a person is ordered to furnish security;

(b) the disqualification in sub-clauses (a), (c), (d) and (e) of clause A will cease to operate after the expiry of three years from the date of such sentence, dismissal, withdrawal or removal or earlier by an order of the Government;

(c) a person shall not be deemed to have incurred disqualification under clause B (b) by reason of his

(i) having a share in any joint-stock company or a share or interest in any literary association registered under the 'Societies Registration Regulation, 1904, or in any society registered under the Mysore Co-operative Societies' Regulation, 1918, which shall contract with or be employed by or on behalf of the district board; or

(ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the district board may be inserted, or

(iii) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the district board.

(2) If any member of a district board during the term for which he has been elected or appointed —

(a) becomes subject to any disqualification specified in sub-section (1), or

(b) votes or takes part as a councillor in the discussion of any matter in which he has directly or indirectly by himself or his partner any such share or interest as is described in sub-clauses (1) and (2) of clause (c) of the proviso to sub-section (1), or

(c) not being a salaried servant of the Government absents himself for more than four consecutive months from the district for which the board is established unless leave so to absent himself, which shall not exceed six months, has been granted by the board, or absents himself for six consecutive months from meetings of the board,

He shall be disabled from continuing to be a member and his office shall become vacant.

(3) If any question or dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Government shall be final for the purpose of deciding such question or dispute or doubt.

11. Every person whose name is entered in the list prepared under section 8 for a constituency and who is not disqualified to be a member of the district board shall be qualified to be a candidate at any election in such constituency provided that a person who is already a member of the district board shall not be entitled to be a candidate at a bye-election held before the expiry of his term of office as member of such district board."

Clause 9.—In consequence of the amendment proposed of sections 10 and 11, section 26 has to be deleted.

Clause 10.—Section 27 may be renumbered as section 26 and the proposed section 27 (A) may be numbered as section 27.

Clause 14.—In item (h) of sub-clause (3) in this clause, for the words "improve breed of cattle", the words "take measures for improvement of cattle" may be substituted.

Clause 15.—In section 54A (1) proposed to be inserted by this clause, for the words “in the case of the latter”, the words “in respect of an application by a Village Panchayet” may be substituted.

Clause 17.—In clause (d) of section 65 proposed to be substituted, the letter “(d)” may be omitted and the word “for” may be inserted after “Government”.

Proviso (2) in the same clause may be deleted, being unnecessary.

Clause 18.—We consider that it is unnecessary to provide in the Regulation itself the details of the method of determining whether any portion of the railway cess is required for expenditure on the construction of a railway or tramway as stated in clause (2) of proposed sub-section 4 of section 68. It will be quite enough to state that the cess may be utilised for the construction of new roads, etc., provided it is not required for expenditure on the purposes specified in sub-section (3). Since the fund can be diverted for such expenditure only with the previous approval of the Government, there will be scope for the Government to investigate the traffic prospects of the railway or tramway concerned and ascertain if it will be a profitable one or otherwise. We therefore suggest that clause (2) of sub-section (4) of section 68, as proposed in the bill be deleted and instead of clause (1) therein the words “expenditure on the purposes specified in sub-section (3)” be substituted. In the Explanation to this clause the words: “to roads” after the words “improvement works” may be deleted.

Clause 19.—We consider that it is unnecessary to insert in this Regulation a provision on the lines of proposed section 71 B and that a suitable provision may be inserted in the Land Revenue Code.

Clause 20.—(1) In section 77 (2) proposed to be inserted, the words “and the Deputy Commissioner shall submit the same to the Government with his remarks, if any, with the least possible delay” may be omitted.

(2) In section 77 (3) sub-clause (c), the words “on behalf of the District Board and” shall be inserted before the words “any other local authority”

(3) Section 79 (3) is redrafted as follows:—

“(3) The District Board shall at the first general meeting held after the audit of the past official year's accounts, pass such accounts.”

(4) In section 79 A (2), the word "audit" may be substituted for the words "their office".

(5) In section 79 (F), the words "and shall be" have to be inserted before the word "credited".

(Sd.) N. MADHAVA RAU (Chairman):

" K. V. ANANTARAMAN.

" A. V. RAMANATHAN.

" H. V. RAMASVAMI.

" M. VENKATANARANAPPA.

" MOHAMED ABBAS KHAN.

" S. C. MALLIAH.

" G. CHANNAPPA

" H. B. GUNDAPPA } (Subject
to a note).

Note by Messrs. G. Channappa and H. B. Gundappa.

We, the undersigned members, beg to append herewith the following note to the Select Committee Report:—

In clause 7(1), the amending bill provides for the President or the Vice-President to take charge of his office only from the date of notification of his election or appointment. The reason for this change seems to make the present clause more definite and clear and therefore we are of opinion that this provision could be made equally clear and definite by providing that the President or Vice-President should enter upon his duties soon after he is declared elected. In most of the British Indian Provinces, the practice is that the President or Vice-President will take charge of his office soon after he is declared elected and we are strongly of opinion that similar provision would be better than the present clause. We don't think that there is any necessity for the Government to take this power of indirectly approving the elections. Such a power is neither healthy nor good in the development of self-governing institutions.

In clause 12, the words "loss or waste" are sought to be introduced for "mis-application" and we are of opinion that these words are very wide in their meaning.

and may therefore cause a good deal of trouble in their actual application. We are therefore definitely against the proposed change.

In clause 14(n) we are of opinion that it is not necessary to make it incumbent that the resolution should be supported by one-half of the total number of the members of the Board, because there is already the safe-guard of obtaining a previous sanction of Government to all such resolutions. Either it may be left to the absolute majority of the Board without providing for any previous sanction of Government or it may be left to the ordinary majority of the Board in which case the previous sanction of Government shall be obtained to the resolution of the Board. We feel that two safe-guards that are provided now are quite unnecessary and may work a great hardship in actual working.

In clause 54 A(1) the word "Village Panchayet" should be omitted. We are strongly of opinion that the control of markets should vest in one body, *i.e.*, District Board and the introduction of dual control is neither good nor sound. It is therefore urged that this point will be carefully reconsidered and accepted by the Government.

We are strongly of opinion that in Clause 77(2) and in Clause 79 H (1) the words "Through the Deputy Commissioner" should be omitted. At present the Government have ordered that all correspondence between Government and the President of District Board should pass through the Deputy Commissioner and we are contending all along that there is no need for such a procedure. As far as we are aware, this practice is not followed in British India—at any rate, not so in Madras Presidency—and therefore we strongly urge that this practice should be put an end to as early as possible. The chief reason for the Government to insist on this procedure, seems to be that the Deputy Commissioner who is the District representative of Government, should be kept informed of all that is happening in the District Board. We do not know if there is any need for such a contention and even, if there is, this can be achieved by asking the Presidents to send copies of all their communications sent to Government to the Deputy Commissioners also. But we feel that there is no need even for such a procedure and if the Government want to consult the Deputy Commissioners

on any point, they may do so by calling for their opinion separately whenever they feel it necessary to do so. We therefore strongly urge upon the kind attention of Government that this practice may be put an end to as early as possible.

This bill is mainly based on the City Municipal Regulation and we beg to point out that there is no such procedure or practice with regard to correspondence which passes between the President of a City Municipality and Government. Such being the case, we do not see any reason that this practice should be insisted upon in the case of District Board Presidents.

In clause 79 D(2) the Deputy Commissioner is the officer who is responsible for sur-charging the amount of any deficiency or loss incurred by negligence or misconduct, etc. We feel that it would not be in the interest of smooth administration of the District Boards if the Deputy Commissioner is made the authority for the same and we feel that the Government would be a better authority for this purpose. We therefore strongly urge that the Government be made responsible to pass orders under this chapter instead of the Deputy Commissioner.

We are of opinion that in clause 79 H (2) the words "subject to the approval of Government" be omitted.

In Section 100 A, the Government have proposed to take power to delegate all or any of its powers to any officer subordinate to it. We are strongly opposed to this clause firstly because the status of the officer to whom such powers can be delegated is not defined nor restricted and secondly because we feel that the Government should not delegate any of its powers to any officers subordinate to it. There is no such provision in the old Regulation and the Government have been all along exercising all these powers and we do not see any reason for delegating such powers to any other officer however high he may be at present. It would be in the interest of District Boards that all these powers should be strictly exercised by Government. We therefore strongly urge that this clause be omitted.

If for any reason the Government cannot accept them, we suggest as an alternative, that the status of the officer to whom such powers can be delegated should not be below a Provincial Officer or of Head of a Department and it would be better if a qualifying clause to that effect is

added in the Regulation itself. But it would be in the best interest of all, that the Government should not delegate its powers to any officer and therefore strongly urge for the present that this clause may be omitted.

Although this amending bill has tried to make clear certain provisions, it cannot be said that it has in any way widened its scope or enlarged the powers and privileges of non-officials. On the other hand, it has tried to impose certain restrictions on them. We are sorry to note that the Government seem to think that there is a necessity for their own representative, i.e., the Deputy Commissioner, to be always watching the doings of District Board or their heads, the non-official Presidents. There are enough safeguards in the Regulation itself and the powers of Government are quite adequate and wide enough to deal with any kind of mal-administration. Such being the case, any further restrictions may not help the growth and development of the self-governing institutions.

We may make it clear that we are not opposed to make suitable provisions for sur-charges, etc., but we only differed with regard to certain details. While we welcome all safeguards, which would instil the growth of healthy administration, we wish that this amending Bill had contained more liberal provisions which would go to enlarge the powers of the non-officials, such as widening the franchise, increasing elected element in the Boards and doing away altogether with the system of making nominations. Even the Municipal Regulations, on which this bill seems to have been based, have contained better provisions in this respect, and we regret to find that this Bill is absolutely silent on these points. If the bill had contained such provisions, certainly it would have been more acceptable to non-officials.

(Sd.) G. CHANNAPPA

H. B. GUNDAPPA.